

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 530/2000

New Delhi this the 18th day of September, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI M. P. SINGH, MEMBER (A)

Ct. Islam Ahmed No.292/F,
under suspension,
R/O V & P.O. Mittli,
Distt. Baghpat (UP).

... Applicant

(By Ms. Jasvinder Kaur, Advocate)

-versus-

Deputy Commissioner of Police,
FRRO, New Delhi,
Hans Bhawan, BSZ Marg,
New Delhi.

... Respondent

(By Shri Ajesh Luthra, Advocate)

O R D E R (ORAL)

Shri Justice Ashok Agarwal :

In respect of an incident that had occurred at the Indira Gandhi International Airport on 17.4.1999, applicant is being prosecuted for an offence punishable under Section 104 of the Customs Act, 1962. In the incident he is alleged to be involved in carrying a bag of foreign currency valued at Rs.27,79,963/-. Based on the very same facts, an order of dismissal from service was issued against applicant without holding an enquiry. Aforesaid order was passed under Article 311(2)(b) of the Constitution. Aforesaid order of dismissal from service was carried by applicant in appeal. The appellate authority has set aside the aforesaid order of the disciplinary authority and has directed disciplinary proceedings to be conducted against

applicant. By an order passed on 7.3.2000, disciplinary proceedings have now been initiated against applicant. 10

2. By the present OA, applicant claims stay of the disciplinary proceedings pending the criminal trial. According to applicant the evidence in the aforesaid criminal case as also in the departmental proceedings is identical. If both the proceedings are permitted to continue simultaneously, the same will embarrass applicant's defence. Applicant, in support of his claim for stay, has inter alia placed reliance on a circular issued on 31.8.1999 which is based on a decision of the Supreme Court in the case of M. Paul Anthony v. Bharat Gold Mines Ltd., JT 1999 (2) SC 456 (Annexure A-7).


3. We have heard the learned counsel appearing for contending parties and we find that it is not disputed that the facts both in the criminal trial as also in the disciplinary proceedings are identical. If disciplinary proceedings are permitted to continue pending the criminal trial, applicant is bound to be required to disclose his defence. This may jeopardise his defence in the criminal trial. Moreover, aforesaid circular also suggests the stay of disciplinary proceedings pending criminal trial.

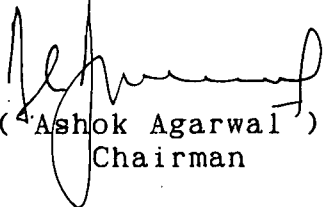
4. In the circumstances, we find that the prayer contained in the present OA deserves to be granted. Respondents are accordingly restrained from

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proceeding with the disciplinary proceedings till the conclusion of the criminal trial.

5. Present OA is accordingly allowed in the aforestated terms. There will, however, in the facts and circumstances of the case, be no order as to costs.


(M. P. Singh)
Member(A)


(Ashok Agarwal)
Chairman

/as/